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H. R. 1964

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Highlands Conserva-
3 tion Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following—

6 (1) The Highlands region is a physiographic
7 province that encompasses more than 2,000,000
8 acres extending from eastern Pennsylvania through
9 the States of New Jersey and New York to north-
10 western Connecticut.

11 (2) The Highlands region is an environmentally
12 unique area that—

13 (A) provides clean drinking water to over
14 15,000,000 people in metropolitan areas in the
15 States of Connecticut, New Jersey, New York,
16 and Pennsylvania;

17 (B) provides critical wildlife habitat, in-
18 cluding habitat for 247 threatened and endan-
19 gered species;

20 (C) maintains an important historic con-
21 nection to early Native American culture, colo-
22 nial settlement, the American Revolution, and
23 the Civil War;

24 (D) contains recreational resources for 14
25 million visitors annually;

1 (E) provides other significant ecological,
2 natural, tourism, recreational, educational, and
3 economic benefits; and

4 (F) provides homeownership opportunities
5 and access to affordable housing that is safe,
6 clean, and healthy.

7 (3) An estimated 1 in 12 citizens of the United
8 States live within a 2-hour drive of the Highlands
9 region.

10 (4) More than 1,400,000 residents live in the
11 Highlands region.

12 (5) The Highlands region forms a greenbelt ad-
13 jacent to the Philadelphia-New York City-Hartford
14 urban corridor that offers the opportunity to pre-
15 serve water, forest and agricultural resources, wild-
16 life habitat, recreational areas, and historic sites,
17 while encouraging sustainable economic growth and
18 development in a fiscally and environmentally sound
19 manner.

20 (6) Continued population growth and land use
21 patterns in the Highlands region—

22 (A) reduce the availability and quality of
23 water;

24 (B) reduce air quality;

25 (C) fragment the forests;

1 (D) destroy critical migration corridors
2 and forest habitat; and

3 (E) result in the loss of recreational oppor-
4 tunities and scenic, historic, and cultural re-
5 sources.

6 (7) The water, forest, wildlife, recreational, ag-
7 ricultural, and cultural resources of the Highlands
8 region, in combination with the proximity of the
9 Highlands region to the largest metropolitan areas
10 in the United States, make the Highlands region na-
11 tionally significant.

12 (8) The national significance of the Highlands
13 region has been documented in—

14 (A) the New York-New Jersey Highlands
15 Regional Study conducted by the Forest Service
16 in 1990;

17 (B) the New York-New Jersey Highlands
18 Regional Study: 2002 Update conducted by the
19 Forest Service;

20 (C) the bi-State Skylands Greenway Task
21 Force Report;

22 (D) the New Jersey State Development
23 and Redevelopment Plan;

24 (E) the New York State Open Space Con-
25 servation Plan;

1 (F) the Connecticut Green Plan: Open
2 Space Acquisition FY 2001–2006;

3 (G) the open space plans of the State of
4 Pennsylvania; and

5 (H) other open space conservation plans
6 for States in the Highlands region.

7 (9) The Highlands region includes or is adja-
8 cent to numerous parcels of land owned by the Fed-
9 eral Government or federally designated areas that
10 protect, conserve, or restore resources of the High-
11 lands region, including—

12 (A) the Wallkill River National Wildlife
13 Refuge;

14 (B) the Shawanagunk Grasslands Wildlife
15 Refuge;

16 (C) the Morristown National Historical
17 Park;

18 (D) the Delaware and Lehigh Canal Cor-
19 ridors;

20 (E) the Hudson River Valley National
21 Heritage Area;

22 (F) the Delaware River Basin;

23 (G) the Delaware Water Gap National
24 Recreation Area;

1 (H) the Upper Delaware Scenic and Rec-
2 reational River;

3 (I) the Appalachian National Scenic Trail;

4 (J) the United States Military Academy at
5 West Point, New York;

6 (K) the Highlands National Millenium
7 Trail;

8 (L) the Great Swamp National Wildlife
9 Refuge;

10 (M) the proposed Crossroads of the Revo-
11 lution National Heritage Area;

12 (N) the proposed Musconetcong National
13 Scenic and Recreational River in New Jersey;
14 and

15 (O) the Farmington River Wild and Scenic
16 Area in Connecticut.

17 (10) It is in the interest of the United States
18 to protect, conserve, and restore the resources of the
19 Highlands region for the residents of, and visitors
20 to, the Highlands region.

21 (11) The States of Connecticut, New Jersey,
22 New York, and Pennsylvania, and units of local gov-
23 ernment in the Highlands region have the primary
24 responsibility for protecting, conserving, preserving,

1 restoring and promoting the resources of the High-
2 lands region.

3 (12) Because of the longstanding Federal prac-
4 tice of assisting States in creating, protecting, con-
5 serving, and restoring areas of significant natural
6 and cultural importance, and the national signifi-
7 cance of the Highlands region, the Federal Govern-
8 ment should, in partnership with the Highlands
9 States and units of local government in the High-
10 lands region, protect, restore, and preserve the
11 water, forest, agricultural, wildlife, recreational and
12 cultural resources of the Highlands region.

13 **SEC. 3. PURPOSES.**

14 The purposes of this Act are as follows:

15 (1) To recognize the importance of the water,
16 forest, agricultural, wildlife, recreational and cultural
17 resources of the Highlands, and the national signifi-
18 cance of the Highlands region to the United States.

19 (2) To authorize the Secretary of the Interior
20 to work in partnership with the Secretary of Agri-
21 culture to provide financial assistance to the High-
22 lands States to preserve and protect high priority
23 conservation lands in the Highlands region.

24 (3) To continue the ongoing Forest Service pro-
25 grams in the Highlands region to assist the High-

1 lands States, local units of government and private
2 forest and farm landowners in the conservation of
3 lands and natural resources in the Highlands region.

4 **SEC. 4. DEFINITIONS.**

5 In this Act:

6 (1) HIGHLANDS REGION.—The term “High-
7 lands region” means the physiographic province, de-
8 fined by the Reading Prong and ecologically similar
9 adjacent upland areas, that encompasses more than
10 2,000,000 acres extending from eastern Pennsyl-
11 vania through the States of New Jersey and New
12 York to northwestern Connecticut.

13 (2) HIGHLANDS STATE.—The term “Highlands
14 State” means—

15 (A) the State of Connecticut;

16 (B) the State of New Jersey;

17 (C) the State of New York;

18 (D) the State of Pennsylvania; and

19 (E) any agency or department of any
20 Highlands State.

21 (3) LAND CONSERVATION PARTNERSHIP
22 PROJECT.—The term “land conservation partnership
23 project” means a land conservation project located
24 within the Highlands region identified as having
25 high conservation value by the Forest Service in

1 which a non-Federal entity acquires land or an in-
2 terest in land from a willing seller for the purpose
3 of permanently protecting, conserving, or preserving
4 the land through a partnership with the Federal
5 Government.

6 (4) NON-FEDERAL ENTITY.—The term “non-
7 Federal entity” means any Highlands State, or any
8 agency or department of any Highlands State with
9 authority to own and manage land for conservation
10 purposes, including the Palisades Interstate Park
11 Commission.

12 (5) STUDY.—The term “study” means the New
13 York-New Jersey Highlands Regional Study con-
14 ducted by the Forest Service in 1990.

15 (6) UPDATE.—The term “update” means the
16 New York-New Jersey Highlands Regional Study:
17 2002 Update conducted by the Forest Service.

18 **SEC. 5. LAND CONSERVATION PARTNERSHIP PROJECTS IN**
19 **THE HIGHLANDS REGION.**

20 (a) SUBMISSION OF PROPOSED PROJECTS.—Annu-
21 ally, the Governors of the Highlands States, with input
22 from pertinent units of local government and the public,
23 may jointly identify land conservation partnership projects
24 in the Highlands region that shall be proposed for Federal

1 financial assistance and submit a list of those projects to
2 the Secretary of the Interior.

3 (b) CONSIDERATION OF PROJECTS.—The Secretary
4 of the Interior, in consultation with the Secretary of Agri-
5 culture, shall annually submit to Congress a list of those
6 land conservation partnership projects submitted under
7 subsection (a) that are eligible to receive financial assist-
8 ance under this section.

9 (c) ELIGIBILITY CONDITIONS.—To be eligible for fi-
10 nancial assistance under this section for a land conserva-
11 tion partnership project, a non-Federal entity shall enter
12 into an agreement with the Secretary of the Interior
13 that—

14 (1) identifies the non-Federal entity that shall
15 own or hold and manage the land or interest in land;

16 (2) identifies the source of funds to provide the
17 non-Federal share required under subsection (d);

18 (3) describes the management objectives for the
19 land that will assure permanent protection and use
20 of the land for the purpose for which the assistance
21 will be provided;

22 (4) provides that, if the non-Federal entity con-
23 verts, uses, or disposes of the land conservation
24 partnership project for a purpose inconsistent with
25 the purpose for which the assistance was provided,

1 as determined by the Secretary of the Interior, the
2 United States may seek specific performance of the
3 conditions of financial assistance in accordance with
4 paragraph (3) in Federal court and shall be entitled
5 to reimbursement from the non-Federal entity in an
6 amount that is, as determined at the time of conver-
7 sion, use, or disposal, the greater of—

8 (A) the total amount of the financial as-
9 sistance provided for the project by the Federal
10 Government under this section; or

11 (B) the amount by which the financial as-
12 sistance increased the value of the land or in-
13 terest in land; and

14 (5) provides that land conservation partnership
15 projects will be consistent with areas identified as
16 having high conservation value in the following:

17 (A) Important Areas portion of the Forest
18 Service study.

19 (B) Conservation Focal Areas portion of
20 the Forest Service update.

21 (C) Conservation Priorities portion of the
22 update.

23 (D) Lands identified as having higher or
24 highest resource value in the Conservation Val-
25 ues Assessment portion of the update.

1 (d) NON-FEDERAL SHARE REQUIREMENT.—The
2 Federal share of the cost of carrying out a land conserva-
3 tion partnership project under this section shall not exceed
4 50 percent of the total cost of the land conservation part-
5 nership project.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated to the Secretary of the Inte-
8 rior from the general funds of the Treasury or the Land
9 and Water Conservation Fund to carry out this section
10 \$10,000,000 for each of the fiscal years 2005 through
11 2014. Amounts appropriated pursuant to this authoriza-
12 tion of appropriations shall remain available until ex-
13 pended.

14 **SEC. 6. FOREST SERVICE AND USDA PROGRAMS IN THE**
15 **HIGHLANDS REGION.**

16 (a) IN GENERAL.—In order to meet the land resource
17 goals of, and the scientific and conservation challenges
18 identified in, the study, update, and any future study that
19 the Forest Service may undertake in the Highlands region,
20 the Secretary of Agriculture, acting through the Chief of
21 the Forest Service and in consultation with the Chief of
22 the National Resources Conservation Service, shall con-
23 tinue to assist the Highlands States, local units of govern-
24 ment, and private forest and farm landowners in the con-

1 servation of lands and natural resources in the Highlands
2 region.

3 (b) DUTIES.—The Forest Service shall—

4 (1) in consultation with the Highlands States,
5 undertake other studies and research as appropriate
6 in the Highlands region consistent with the purposes
7 of this Act;

8 (2) communicate the findings of the study and
9 update and maintain a public dialogue regarding im-
10 plementation of the study and update; and

11 (3) assist the Highland States, local units of
12 government, individual landowners, and private or-
13 ganizations in identifying and using Forest Service
14 and other technical and financial assistance pro-
15 grams of the Department of Agriculture.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to the Secretary of Agri-
18 culture to carry out this section \$1,000,000 for each of
19 the fiscal years 2005 through 2014.

20 **SEC. 7. PRIVATE PROPERTY PROTECTION AND LACK OF**
21 **REGULATORY EFFECT.**

22 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
23 this Act shall be construed to—

1 (1) require any private property owner to per-
2 mit public access (including Federal, State, or local
3 government access) to such private property; and

4 (2) modify any provision of Federal, State, or
5 local law with regard to public access to or use of
6 private lands.

7 (b) LIABILITY.—Nothing in this Act shall be con-
8 strued to create any liability, or to have any effect on any
9 liability under any other law, of any private property
10 owner with respect to any persons injured on such private
11 property.

12 (c) RECOGNITION OF AUTHORITY TO CONTROL LAND
13 USE.—Nothing in this Act shall be construed to modify
14 any authority of Federal, State, or local governments to
15 regulate land use.

16 (d) PARTICIPATION OF PRIVATE PROPERTY OWN-
17 ERS.—Nothing in this Act shall be construed to require
18 the owner of any private property located in the Highlands
19 region to participate in the land conservation, financial,
20 or technical assistance or any other programs established
21 under this Act.

22 (e) PURCHASE OF LANDS OR INTERESTS IN LANDS
23 FROM WILLING SELLERS ONLY.—Funds appropriated to

- 1 carry out this Act shall be used to purchase lands or inter-
- 2 ests in lands only from willing sellers.

Passed the House of Representatives November 21,
2003.

Attest:

JEFF TRANDAHL,
Clerk.